



POLICY BRIEF | PCB HMR 20-02 PHARMACY BENEFIT MANAGERS

Data transparency is vital to understanding why prescription drug costs are increasing. **PCB HMR 20-02** makes information on the sources of revenue for pharmacy benefit managers (PBMs), and on drug price increases, available to the public and to insurers. It also addresses abusive PBM pharmacy audits by making those processes more transparent to pharmacies.

PCB HMR 20-02 PHARMACY BENEFIT MANAGERS: requires PBMs, health insurers, and drug manufacturers to submit data to the state and one another, and addresses abusive pharmacy audits.

- PBMs are third-party administrators that manage prescription drug benefits on behalf of a health insurer or employer.
- PBMs contract with pharmacies; negotiate prices and rebates with drug manufacturers; develop and maintain formularies (lists of drugs covered by insurers); and process and pay prescription drug claims.¹
- Spread pricing is when a PBM keeps a portion of the amount paid to them by a health insurer for prescription drugs rather than passing the full amount on to pharmacies to pay for those drugs.
 - There is some concern, including from Centers for Medicare & Medicaid Services Administrator Seema Verma, that spread pricing inflates prescription drug costs.²
 - Insurers and employers can contract for various ways to compensate PBMs for their work and are free to prohibit spread pricing in their contracts with PBMs.
 - We do not know the extent of the use of spread pricing, or of other forms of PBM compensation.
 - There is no clear answer on how spread pricing or other forms of PBM compensation affect drug prices and insurance premiums.
- This bill would create transparency by requiring PBMs, insurance companies, and drug manufacturers to report data to the state and to each other.
 - PBMs would to annually report their revenue data to the insurer, including:
 - Aggregate rebates received and amounts retained,
 - Aggregate amount of administrative fees paid by insurer,
 - Types and amounts of fees paid by pharmacies, and
 - Aggregate revenue generated from “spread pricing.”
 - Insurers would to annually report the PBM data to the Office of Insurance Regulation (OIR), which would publish the data.
 - Drug manufacturers would annually report their drug price increases to the OIR and Department of Business and Professional Regulation on, describing the factors contributing to each drug price increase.
 - Drug manufacturers would also be required to notify insurers of each drug price increase 60 days prior to the increase, allowing the insurer to adjust for the increased risk.
- The bill also addresses the needs of pharmacies to have predictable audits.

Please refer to the bill text and staff analyses for further information.

¹ *Pharmacy Benefit Management*, American Pharmacists Association, at 1, available at: https://www.pharmacist.com/sites/default/files/files/Profile_24_PBM_SDS_FINAL_090707.pdf (last visited Jan. 17, 2020).

² *CMS Issues New Guidance Addressing Spread Pricing in Medicaid, Ensures Pharmacy Benefit Managers are not Up-Charging Taxpayers*, Centers for Medicare & Medicaid Services, available at: <https://www.cms.gov/newsroom/press-releases/cms-issues-new-guidance-addressing-spread-pricing-medicare-ensures-pharmacy-benefit-managers-are-not> (last visited Jan. 17, 2020).